

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
NORTHERN DIVISION**

**C.B., by and through his** )  
**next friend, Charleston DePriest, et al.** )  
 )  
 **Plaintiffs,** )  
 )  
**v.** )  
 )  
**WALNUT GROVE CORRECTIONAL** )  
**AUTHORITY, et al.** )  
 )  
 **Defendants.** )  
\_\_\_\_\_ )

**Civil Action No. 3:10cv663-CWR-FKB**

**PLAINTIFFS' MOTION FOR ATTORNEYS' FEES**

Pursuant to Rule 54 (d)(2)(B) of the Federal Rules of Civil Procedure, Local Rule 54 (c), and 42 U.S.C. § 1988, Plaintiffs hereby move the Court for an award of their reasonable attorneys' fees and non-taxable costs for their work in enforcing the judgment in this matter and establishing a violation of Plaintiffs' federal rights.<sup>1</sup>

On March 26, 2012, the Court entered a Consent Decree in this case approving and adopting remedies that the parties had agreed were needed to abate unacceptable risks to the health and safety of prisoners housed at Walnut Grove Correctional Facility. Consent Decree March 26, 2012, ECF No. 75-3. On August 6, 2014, Plaintiffs moved for enforcement and modification of the Decree with respect to remedial provisions relating to violence. Motion for Enforcement and Modification of Consent Decree, August 6, 2014, ECF No. 106. On March 13, 2015, Defendants filed a motion

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<sup>1</sup> An Advisory Committee Note to the 1993 amendments to Fed. R. Civ. P. 54 explains that "[t]he rule does not require that the motion be supported at the time of filing with the evidentiary material bearing on the fees. That material must, of course, be submitted in due course according to such schedule as the court may direct in light of the circumstance of the case." *See also Dennis v. Warren*, 779 F.2d 245, 249 & n.5 (5th Cir. 1985) (holding that time records need not be filed with fee petition).

pursuant to the Prison Litigation Reform Act for termination of all relief. Motion to Terminate Prospective Relief, March 13, 2015, ECF No. 129. On June 11, 2015, the Court issued an Order granting in part and denying in part Plaintiffs' motion and denying Defendants' motion, and declaring that "the Court will continue to enforce the consent decree in this matter as necessary." ECF No. 170 at 1, 32.

Having prevailed at least in part in the motions decided by the Court in its June 11, 2015 Order, Plaintiffs are accordingly entitled to reasonable attorneys' fees and expenses pursuant to 42 U.S.C. § 1988, which provides:

in any action or proceeding to enforce a provision of [42 U.S.C. § 1983], the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs[.]

A "prevailing party" is one that has been awarded some relief by the court. *Buckhannon Bd. & Care Home, Inc. v. W. Virginia Dep't of Health & Human Res.*, 532 U.S. 598, 603 (2001). Plaintiffs "have prevailed if they managed to keep the defendants from undoing their previous work by disturbing the earlier judgment." *Walker v. U.S. Dep't of Hous. & Urban Dev.*, 99 F.3d 761, 767 (5th Cir. 1996).

Plaintiffs fairly estimate that they will seek to recover approximately \$386,317.74 in attorneys' fees incurred from July 11, 2014 to the date of this motion, and approximately \$43,116.92 in non-taxable costs. Plaintiffs respectfully propose October 30, 2015 as the date for submission of Plaintiffs' brief and declarations in support of this motion, or, should an appeal be filed, within sixty days of the resolution of the appeal.

Dated this 25<sup>th</sup> day of June, 2015

Respectfully submitted,

/s/Margaret Winter

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(admitted *pro hac vice*)

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**CERTIFICATE OF SERVICE**

I, Jody E. Owens, hereby certify that a true and correct copy of the foregoing document was filed electronically. Notice of this filing will be sent by electronic mail to all parties by the Court's electronic filing system. Parties may access this filing through the Court's CM/ECF System.

SO CERTIFIED, this the 25<sup>th</sup> day of June, 2015.

/s/Jody E. Owens, II  
Jody E. Owens, II, MSB No. 102333